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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	**Applicant(s)**
Office Action Summary	10/826,718	ANDERSON, GLEN
	Examiner	**Art Unit**	
	Phillip H. Nguyen	2191	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>08 August 2007</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-17,19-37,39-48 and 50-53* is/are pending in the application.

    4a) Of the above claim(s) _ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-17,19-37,39-48 and 50-53* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This action is in response to the amendment filed 8/8/2007.

2.   Claims 1-17, 19-37, 39-48, 50-53 are pending and have been considered below.

Examiner's Note:

3.   Applicant appears to be attempting to invoke 35 U.S.C. 112 6th paragraph in claim 42 by using "means-plus-function" language. However, examiner notes that the only "means" for performing these cited functions in the specification appears to be software. Since no other specific structural limitations are disclosed in the specification, the claim has not invoked 35 U.C.S. 112 6th paragraph when considered below.

Response to Amendment

4.   Per Applicants' request, claims 1, 12, 21, 33, 35, 40, 42, 46 and 51 have been amended; claims 18, 38 and 49 have been canceled; claim 53 are new.

5.   The rejection under 35 USC § 101 to claims 1-41 and 46-52 is withdrawn in view of Applicants' amendment to these claims.

6.   The rejection under 35 USC § 112, second paragraph to claims 1-52 is withdrawn in view of Applicants' amendment to clarify the identified discrepancies.

Response to Arguments

7.   Applicant's arguments with respect to claims 1-52 have been considered but are

moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

8.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

9.   Claims 1-4, 6-8, 10-17, 19-37, 39-41, 46-48 and 50-53 are rejected under 35

U.S.C. 103(a) as being unpatentable over Cheng et al. (United States Patent No.: US

6,542,943 B2).

As per claim 1:

        Cheng discloses a method for downloading substantially up to date versions of

selected software from a plurality of software vendors over a network and for installing

the software to a hardware unit, the network comprising a first software handling

machine configured to execute a download manager (see at least col. 6, line 20 "*client

computer 101*"), a second software handling machine configured to execute a

download supervisor (see at least col. 6, line 21 "*service provider computer 102*") and

a plurality of download servers for downloading software from the plurality of vendors

(see at least col. 6, line 22 "*a number of software vendor computers 103*"), the

method comprising:

- associating a transaction identifier with selection data comprising a software

   selection (see at least col. 7, lines 40-43 "*a unique registration number to*

   the user. This number may be stored on the client computer 101 and

   used during subsequent logins to identify the user to the service

   provider computer 102");

- sending a download transaction request comprising the transaction identifier

   from the download manager to the download supervisor (see at least col. 7,

   lines 16-18 "*the user logs in 201 to the service provider computer 102*

   with the client application 104 in a conventional manner, providing a

   user ID, a password"; also see at least col. 7, lines 44-45 "*the registered*

   users are authenticated 203 by the service provider computer 102"); and

- responsive to determining, by the download supervisor, whether the

   requested download transaction is authorized (see at least col. 7, lines 44-49

   "*the registered users are authenticated 203 by the service provider*

   computer 102. Authentication ensures that only users who are properly

   authorized by the service provider can obtain updates for software

   products"), performing the step of:

   o assembling, by the download supervisor, a download/installation

      instruction comprising up-to-date software access information for the

      software selection (see at least col. 10, lines 58-60 "*update database*

> *709 may also store information describing an installation process*
>
> *for installing a software update*" – *service provider computer 103*
>
> *contains an update database which stores software update description*
>
> *and once a user is authorized, the description is provided to client*
>
> *application 104 for installation of the software update)*;

- o communicating the download/installation instruction from the download

    supervisor to the download manager (see at least col. 8, lines 41-43

    "*the client application 104 downloads 209 the ...installation*

    information, such as installation program, files and the like"); and

- o performing a download and installation of the software selection to the

    hardware unit by the download manager pursuant to the

    download/installation instruction (see at least col. 8, lines 41-43 "*client*

    application 104 downloads 209 the software update, along with

    installation information, such as installation programs, files, and

    the like"; also see at least col. 8, lines 59-60 "*Once the download*

    and applicable payment are complete, the software update is

    physically installed on the client computer 101").

Cheng does not explicitly disclose:

- said selection data being determining at the time of sale of the hardware unit.

However, it would have been obvious to one having an ordinary skill in the art at

the time the invention was made to recognize that the selection data (software update)

can be determined any time, at the time of sale of the hardware unit (computer) or any

time after that.

Therefore, one would have been motivated to determine the selection data

(software update) at the time of sale of the hardware to ensure that he or she gets the

up-to-date software for the purchased hardware unit (computer).

As per claim 2:

Cheng further discloses:

-   wherein the transaction identifier comprises a serial number (see at least col.

    7, line 40 "*a unique registration number*").

As per claim 3:

Cheng further discloses:

-   wherein the software access information comprises a network address for a

    download server (see at least col. 3, lines 20-22 "*The network location*

    provided in the software update information is specified by one or more

    universal resource locator (URL)").

As per claim 4:

Cheng further discloses the method as in claim 1 above; and further discloses:

- wherein the first software handling machine comprises the hardware unit (see

   at least col. 13, lines 4-5 "*A client computer 101 is of conventional design,*

   and includes..., an addressable memory 900").

As per claim 6:

Cheng further discloses:

- wherein the download manager loads from a removable storage media (see

   at least col. 13, lines 40-45 "*the client application 104 may be provided to*

   the client computer 101 on a computer readable media, such as a CD-

   ROM, diskette, 8 mm tape...").

As per claim 7:

Cheng further discloses:

- wherein the first software handling machine comprises a personal computer

   (see at least col. 6, line 20 "*client computer 101*").

As per claim 8:

Cheng further discloses:

- wherein the download manager is configured to launch from the hardware

   unit (see at least col. 13, line 30 "*the client computer 101 executes the*

   client application 104 in memory 900").

As per claims 10 and 17:

Cheng further discloses:

- wherein the download manager is preconfigured to send a download transaction request comprising a predetermined selection of software (*see claim 1 for the reason of rejection*).

As per claim 15:

Cheng further discloses:

- storing a record of the download transaction in a central database (see at least col. 10, lines 29-35 "*update database 709 maintains information identifying a large number of software products, information about the software updates that are available from the diverse software product vendors for these software products...*").

As per claim 16:

Cheng further discloses:

- wherein data comprising the transaction identifier is encrypted (see at least col. 6, line 54 "*authentication and verification may be implemented using convention encryption techniques*").

As per claim 19:

Cheng further discloses:

-   wherein the selection data is determined in whole or in part in an interactive process (see at least col. 15, line 14 "*the user selects one or more of the list software updates*").

As per claim 20:

Cheng further discloses:

-   obtaining the selection data by a point of sale application (see at least col. 14, lines 38-44 "*The result obtained by the system analyzer 907 from the product locator table 803 is a list 1013 of the installed software products on the client computer 101... The system analyzer 907 uses this list to query the service provider computer 102 to determine 205 for which of these products there is an applicable update*" – this is the list of products installed to client computer 101 at the time the products sold).

As per claim 21:

Cheng further discloses:

-   wherein obtaining the selection data by a point of sale application comprises providing an automated kiosk for selecting software and recording the selection for a download transaction (see at least col. 7, lines 66-68 "*the client application 104 displays 206 the list of applicable software updates to the user, for review and selection thereof of updates for purchase and installation*").

As per claim 22:

Cheng further discloses:

- wherein the selection data is determined in whole or in part by looking up the transaction identifier in a central database (see at least col. 14, lines 66-67 *"Once all of the installed software products have been reviewed against the product table 805, the system analyzer 907 will have a list 1007 of the applicable software updates"*).

As per claim 23:

Cheng further discloses:

- wherein determining whether the download transaction is authorized comprises evaluating the transaction identifier (see at least col. 7, lines 44-45 *"the registered users are authenticated by the service provider computer 102"*).

As per claim 24:

Cheng further discloses:

- interrogating the hardware unit to obtain information comprising preexisting software (see at least col. 13, lines 62-63 *"system analyzer 907 for analyzing 204 the client computer 101 to determine the list of installed software products"*).

As per claim 25:

Cheng further discloses:

- wherein interrogating the hardware unit to obtain information comprising preexisting software comprises executing a Desktop Management Interface (see at least col. 14, lines 10-13 "***system analyzer 907 traverses the entire method table 801, and invokes 1003 each scan method 812 to search the Registry and configuration files 915 of the client computer 101***" – execution of Desktop Management Interface must performed in order for the system analyzer 907 to perform the analyzing on the client computer 101 to obtain the Registry and configuration information).

As per claim 26:

Cheng further discloses:

- modifying the selection data in response to the information comprising preexisting software (see at least col. 14, lines 38-44 "***the result obtained by the system analyzer 907 from the product locator table 803 is a list 1013 of the installed software products on the client computer 101...the system analyzer 907 uses this list to query the service provider computer 102 to determine 205 for which of these products there is an applicable update***").

As per claim 27:

Cheng further discloses:

- wherein the software access information comprises an authentication code for

    activating or downloading software (see at least col. 6, line 49 "*code*

    authentication").

As per claim 28:

Cheng further discloses:

- wherein the authentication code is provided by an authentication subsystem

    of the download supervisor (see at least col. 6, line 49 "*verification*

    subsystems").

As per claim 29:

Cheng further discloses:

- storing download transaction data to a central database (see at least col. 18,

    lines 7-8 "*updating of the update database 709 to include new software*

    updates from various software vendors").

As per claim 30:

Cheng further discloses:

- wherein the download transaction data comprises a download transaction

    status (see at least col. 18, lines 12-16 "*contains information about the*

current update for the software products, and the product... which

identifies the various software products for which their updates are the

most frequently modified").

As per claim 31:

Cheng does not explicitly disclose:

- wherein the download transaction status comprises a transaction hold status

  (see at least col. 8, lines 39-40 "*provides the user the opportunity to*

  confirm or cancel the installation").

As per claim 32:

Cheng disclose the method as in claim 31 above, but does not explicitly

discloses:

- wherein communicating a download/installation instruction from the download

  supervisor to the download manager is held in abeyance while a transaction

  is in a hold status (*It is inherent in Cheng's approach since the updating*

  is in a hold status).

As per claim 33:

Cheng further discloses:

- Wherein the software is data comprising music, images, video, and the like

(see at least col. 23, line 30 "***work processing, desktop publishing,***

graphics, adventure games...").

As per claim 34:

Cheng further discloses:

- wherein the software is data comprising data related to services (see at least

col. 17, lines 6-8 "***each user is charged a service fee for using the service***

provider computer 102 to download software updates").

As per claim 35:

Cheng discloses a system for downloading software to a hardware unit from a

plurality of vendors over a network, the system comprising:

- a plurality of download servers in the network (see at least col. 16, line 33

"***multiple servers***") for downloading software from the plurality of software

vendors (see at least col. 16, line 23 "***software vendor computers 103***");

- a first software handling machine in the network ("**Client computer 101**" Col

13, line 4) and linked to the hardware unit (see at least col. 13, lines 4-5 "***A***

client computer 101 is of conventional design and include an

addressable memory 900"), the first software handling machine configured

to execute a download manager (see at least col. 13, line 30 "***client***

computer 101 executes the client application 104 in memory 900"), the

download manager adapted to initiate a download/installation transaction

comprising selected software to be download to the hardware unit from one or

more of the plurality of download servers (see at least col. 7, lines 50-51 *"the*

client application 104 then analyzes 204 the client computer 101 to

determine a list of installed software products"), to send a transaction

identifier in a download transaction request to a download supervisor over the

network (see at least col. 7, lines 40-43 *"return a unique registration*

number to the user... used during subsequent logins to identify the user

to the service provider computer102"), and to download and install the

selected software to the hardware unit pursuant to a download/installation

instruction received in response to the download transaction request (see at

least col. 8, lines 41-43 *"client application 104 downloads 209 the*

software update, along with installation information, such as installation

programs, files, and the like"; also see at least col. 8, lines 59-60 *"Once the*

download and applicable payment are complete, the software update is

physically installed on the client computer 101"); and

- a second software handling machine in the network configured to execute the

download supervisor (see at least col. 6, line 21 *"service provider computer*

102"), the download supervisor adapted to determine whether the download

transaction request is authorized (see at least col. 7, lines 44-45 *"the*

registered users are authenticated 203 by the service provider computer

102"), and, in response to determining that the transaction is authorized, to

assemble a download/installation instruction comprising substantially up-to-

date software access information for the software selection (see at least col.

10, lines 58-60 "*update database 709 may also store information*

describing an installation process for installing a software update" –

service provider computer 103 contains an update database which stores

software update description and once a user is authorized, the description is

provided to client application 104 for installation of the software update), and

to send the download/installation instruction to the download manager (see at

least col. 8, lines 41-43 "*the client application 104 downloads 209 the*

installation information, such as installation program, files and the

like").

Cheng does not explicitly disclose:

- wherein the first software handling machine is linkable to the hardware unit by

    an external bus, and wherein the download manager executes upon detecting

    that the hardware unit is linked to the first software handling machine by said

    external bus

However, official notice is taken that updating an external hardware unit using an

external bus to link to a computer is well known to the art. For example, updating

software to a peripheral device such as a printer, modem, scanner, disk drive, etc. using

an external bus to link between the peripheral device and the computer or using one

computer to update software of other computers networked (Internet, intranet, etc).

One computer first downloads software update from a server or vendors and upon

detects that other hardware devices or computers are connected to it, performs

software updating to the hardware device.

Therefore, one would have been motivated to use the well-known technique to

combine with Cheng's technique to update any hardware device connected to a

downloaded software computer, such as a printer, disk drive, scanner, computer, etc. if

the hardware device is not capable of perform updating or is not designed to perform

updating by itself or not having enough memory to perform updating by itself, etc.

As per claim 36:

Cheng further discloses:

-   wherein the software access information comprises an authentication code

    (see at least col. 6, line 49 "*code authentication*").

As per claim 37:

Cheng further discloses:

-   wherein the download manager is configured to execute on the hardware unit

    (see at least col. 13, line 30 "*a client computer 101 executes the client*

    application 104").

As per claim 39:

Cheng further discloses:

- wherein the software access information comprises an authentication code for

activating software and a network address for downloading software (see at

least col. 20, lines 33-35 "*the user profile database 711 generally stores*

information descriptive of each user. This information may include the

user ID, password, digital signature..." – *user ID, password, digital*

signature... are the authentication codes).

As per claim 40:

Cheng further discloses:

- wherein the software is data comprising music, images, video, and the like

(see at least col. 23, line 30 "*work processing, desktop publishing,*

graphics, adventure games...").

As per claim 41:

Cheng further discloses:

- wherein the software is data comprising data related to services (see at least

col. 17, lines 6-8 "*each user is charged a service fee for using the service*

provider computer 102 to download software updates").

As per claims 11-14:

- See claim 35 for reason of rejection.

As per claim 46:

Cheng discloses a program comprising a storage medium tangibly embodying program instructions for downloading and installing software to a hardware unit from a plurality of software vendors over a network, the program instructions including instructions operable to cause at least one programmable processor to:

- provide a download manager executable on a first software handling machine in the network (see at least col. 13, line 30 "*client application 104*"); the download manager adapted to initiate a download/installation transaction comprising selected software to be downloaded to the hardware unit from one or more of a plurality of download servers in the network (see at least col. 14, lines 38-44 "**The result obtained by the system analyzer 907 from the product locator table 803 is a list 1013 of the installed software products on the client computer 101... The system analyzer 907 uses this list to query the service provider computer 102 to determine 205 for which of these products there is an applicable update**" – *this is a predetermined selection before given to users to manually select from the predetermined list*), to provide a transaction identifier to identify and validate the download transaction (see at least col. 7, lines 40-43 "*a unique registration number to the user...stored on the client computer 101 and use during subsequent logins to identify the user to the service provider computer 102*") and to perform a download and an installation of selected software to the hardware unit pursuant to a download/installation instruction (see at least col. 8, lines

41-43 "**client application 104 downloads 209 the software update, along with installation information, such as installation programs, files, and the like**"; also see at least col. 8, lines 59-60 "***Once the download and applicable payment are complete, the software update is physically installed on the client computer 101***");

- provide a download supervisor executable on a second software handing machine in the network (see at least col. 16, line 39 "***a security module 701***"), the download supervisor adapted to evaluate data comprising the transaction identifier to determine whether the download transaction is authorized (see at least col. 16, lines 39-40 "***the security module 701 handles the authentication of the user as an authorized user of the service provider computer 102***") and, in response to determining that the transaction is authorized, to communicate a download/installation instruction comprising substantially up-to-date software access information for the selected software from the download supervisor to the download manager (see at least col. 8, lines 41-43 "***client application 104 downloads 209 the software update, along with installation information, such as installation programs, files, and the like***"; also see at least col. 8, lines 59-60 "***Once the download and applicable payment are complete, the software update is physically installed on the client computer 101***");

- associate the transaction identifier with the selected software for the download transaction (see at least col. 7, lines 40-43 "***a unique registration***

number to the user. This number may be stored on the client computer

101 and used during subsequent logins to identify the user to the

service provider computer 102");

- send a download transaction request comprising the transaction identifier

   over the network from the download manager to the download supervisor

   (see at least col. 7, lines 16-18 "*the user logs in 201 to the service*

   provider computer 102 with the client application 104 in a conventional

   manner, providing a user ID, a password"; also see at least col. 7, lines 44-

   45 "*the registered users are authenticated 203 by the service provider*

   computer 102"); and

- perform the download and installation of software to the hardware unit by the

   download manager pursuant to the download/installation instruction (see at

   least col. 8, lines 41-43 "*client application 104 downloads 209 the*

   software update, along with installation information, such as installation

   programs, files, and the like"; also see at least col. 8, lines 59-60 "*Once the*

   download and applicable payment are complete, the software update is

   physically installed on the client computer 101").

Cheng does not explicitly disclose:

- cause the download manager to be preconfigured for downloading a

   predetermined software selection (see claim 1 for reason of rejection).

As per claim 47:

Cheng discloses the program as in claim 46 above; and further discloses

instructions operable to cause at least one programmable processor to:

- cause the download manager to initiate in a boot sequence of the first

  software handling machine (see at least col. 17, line 41 *"the client*

  application 104 requests, for a software product to be updated").

As per claim 48:

Cheng discloses the program as in claim 46 above; and further discloses

instructions operable to cause at least one programmable processor to:

- cause the download manager to launch from the hardware unit during a boot

  sequence of the hardware unit (see at least col. 13, line 30 *"the client*

  computer 101 executes the client application 104 in memory 900").

As per claim 50:

Cheng discloses the program as in claim 49 above; and further discloses

instructions operable to cause at least one programmable processor to:

- cause the download supervisor to store a record of the download transaction

  in a central database (see at least col. 10, lines 29-35 *"update database 709*

  maintains information identifying a large number of software products,

  information about the software updates that are available from the

  diverse software product vendors for these software products...").

As per claim 51:

Cheng discloses the program as in claim 46 above; and further discloses:

- wherein the software is data comprising music, images, video, and the like
  (see at least col. 23, line 30 "*work processing, desktop publishing,*
  graphics, adventure games...").

As per claim 52:

Cheng discloses the program as in claim 46 above; and further discloses:

- wherein the software is data comprising data related to services (see at least
  col. 17, lines 6-8 "*each user is charged a service fee for using the service*
  provider computer 102 to download software updates").

As per claim 53:

Cheng further discloses:

- an automated kiosk running a point of sale application for allowing a user to
  select software at the time of sale of the hardware unit, and recording said
  software selections to said first software handling machine (see at least col. 7,
  lines 66-68 "*the client application 104 displays 206 the list of applicable*
  software updates to the user, for review and selection thereof of
  updates for purchase and installation").

10.   Claims 5, 9 and 42-45 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Cheng et al. (United States Patent No.: US 6,542,943 B2), in view of

DaCosta et al. (United States Patent Application Publication No.: US 2002/0120725

A1).

As per claim 42:

Cheng discloses a hardware unit configured to execute a download manager

(see at least col. 13, line 30 "*a client computer 101 executes the client application*

104") capable of downloading and installing selected software from a plurality of

software vendors from a plurality of download servers in a network, comprising:

- means to provide a transaction identifier to a download supervisor in the

    network to enable the download supervisor to identify (see at least col. 7,

    lines 39-40 "*the service provider computer 102 returns a unique*

    registration number to the user") and validate the download transaction

    (see at least col. 7, lines 44-45 "*the registered users are authenticated 203*

    by the service provider computer 102");

- means to receive a communication from the download supervisor comprising

    a download/installation instruction that includes up-to-date software access

    information for the selected software of the download transaction (see at least

    col. 8, lines 41-43 "*the client application 104 downloads 209 the*

    installation information, such as installation program, files and the

    like"); and

- means to perform the download and installation of the selected software to the hardware unit according to the download/installation instruction (see at least col. 8, lines 41-43 *"client application 104 downloads 209 the software update, along with installation information, such as installation programs, files, and the like"*; also see at least col. 8, lines 59-60 *"Once the download and applicable payment are complete, the software update is physically installed on the client computer 101"*).

Cheng does not explicitly disclose:

- means to initiate the download manager during a boot sequence of the hardware unit .

However, DaCosta discloses:

- means to initiate the download manager during a boot sequence of the hardware unit (see at least [0030] *"Agent 205 is a software program or set of computer-readable program instructions that implements the present invention method for updating applications. In one embodiment, agent 205 is the boot loader that executes during boot up of computer system 190 (the boot loader runs at starup to initialize and configure system hardware)"*).

Therefore, it would have been obvious to one having an ordinary skill in the art at the time the invention was made to modify Cheng to combine with DaCosta's approach to start the updating processing during the booting sequence. One would have been motivated to modify because *the updates can be automatically retrieved each time the*

computer system is booted up or used, the updates can be distributed in a timely

manner without inconveniencing the user. Significantly, applications can be

automatically updated without having to execute the applications and transparent to the

user, so that the user is not diverted from completing the task at hand. (See at least

[0016]).

As per claim 43:

DaCosta further discloses:

- wherein the means to initiate the download manager during a boot sequence

    of the hardware unit comprises executing a bootstrap loader to establish

    basic connectivity and download functions for the hardware unit in order to

    load a program to which the bootstrap loader hand off control (see at least

    [0030] "***Agent 205 is a software program or set of computer-readable***

    program instructions that implements the present invention method for

    updating applications. In one embodiment, agent 205 is the boot loader

    that executes during boot up of computer system 190 (the boot loader

    runs at starup to initialize and configure system hardware)").

As per claim 44:

Cheng further discloses:

- wherein the selected software may be selected or modified by a user in an
  interactive process (see at least col. 15, line 14 "*the user selects one or
  more of the list software updates*").

As per claim 45:

Cheng discloses the hardware unit as in claim 42 above; and further discloses:

- wherein the selected software comprises a predetermined selection (see at
  least col. 14, lines 38-44 "*The result obtained by the system analyzer 907
  from the product locator table 803 is a list 1013 of the installed software
  products on the client computer 101... The system analyzer 907 uses
  this list to query the service provider computer 102 to determine 205 for
  which of these products there is an applicable update*" - *this is a
  predetermined selection before given to users to manually select from the
  predetermined list*).

As per claims 5 and 9:

- See claim 42 for reason of rejection.

Conclusion

11.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Phillip H. Nguyen whose telephone number is (571)

270-1070. The examiner can normally be reached on Monday - Thursday 10:00 AM -

3:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Wei Y. Zhen can be reached on (571) 272-3708. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

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system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PN
10/25/2007

WEI ZHEN
SUPERVISORY PATENT EXAMINER